WP(C) 7155/2002

BEFORE

HON'BLE MR JUSTICE B.P. KATAKEY

The petitioner, who claims to be in possession of holding No. 130 of War d No. 9 of Dibrugarh Municipality, by the present petition has challenged the or der dated 11.2.2002 passed by the Executive Officer of the Dibrugarh Municipal B oard, relevant portion of which is quoted below: -

\This case shall stand disposed of with the direction that as Hon'ble Hi gh Court has directed this Municipality will not take any step for eviction of t he 2nd party from the house in question without following due process of law and statusquo will be maintained as regards to the documents of this Municipality a s submitted to the Hon'ble High Court by the 2nd Party of the case and Municipal Tax etc. shall have to be deposited to this Municipality regularly by the legal heirs of Taizun Nessa the owner of the land with a copy of certificate of legal heirs from the competent authority.\

It has been submitted by the learned counsel for the petitioner that on earlier occasion there was attempted eviction of the petitioner from holding No. 130 of Ward No. 9 of the Dibrugarh Municipality without following the due proce ss of law for which she approached this Court in WP(C) No. 6515/2002, which writ petition was disposed of vide order dated 18.2.2002, directing the respondents therein namely the Dibrugarh Municipal Board as well as the Deputy Commissioner not to evict the petitioner without following the due process of law.

According to the petitioner the Executive Officer, therefore, ought not to have passed the order dated 11.8.2002 relevant portion of which has already b een quoted above.

Mr. Handique, learned State counsel appearing for the respondent Nos. 1 and 2 has submitted that no attempt has been made by the State respondents for e viction of the petitioner.

None appears for other respondents.

No affidavit in opposition has been filed by any of the respondents.

It appears that a Single Bench of this Court passed the order on 8.10.20 02 in WP(C) No. 6515/2002 directing the respondents therein namely the State of Assam represented by the Secretary to the Govt. of Assam, Municipal Administrati on, the Executive Officer, Dibrugarh Municipality Board and the Deputy Commissio ner, Dibrugarh not to evict the petitioner from the house covered by Municipalit y Holding No. 130 of Ward No. 9 without following the due process of law.

By the impugned order dated 11.8.2002 the Executive Officer, Dibrugarh M unicipal Board in clear terms has stated that the petitioner shall not be evicte d from the house in question without following the due process of law. The Execu tive Officer, however, has directed payment of the municipality tax by the legal heirs of Taizun Nessa, whose name has been entered in the revenue records as th e owner of the house in question.

Since the Executive Officer has decided not to disturb the possession of the petitioner without following the due process of law and has only directed p ayment of the municipality taxes by the legal heirs of the land owner, the petit ioner cannot have any grievance against the order dated 11.8.2002.

In case any step for eviction of the petitioner is taken she may contest such proceeding.

In view of the above, the writ petition is disposed of. No cost.